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CV 02-1122 #1

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST SHEET METAL WORKERS
ORGANIZATIONAL TRUST, JIM CRITCHLOW, PETER
FLUETSCH, DAVID PARKS, DON WHITE, JEFF
STOWE, FLOYD BURCHETT, KEITH NEMITZ and
CHARLEY MULCAHY, Trustees of the Northwest Sheet
Metal Workers Organizational Trust, NORTHWEST
SHEET METAL WORKERS WELFARE FUND, PHILLIP
C PETERSEN, BARON DERR, JERRY KINSLEY,
BRENT MOORE, WARREN KITCHENS, CHARLEY
MULCAHY, RICK SCHRADER, and RONALD SENGGER,
Trustees of Northwest Sheet Metal Workers Welfare Fund;
NORTHWEST SHEET METAL WORKERS PENSION
FUND; ROBERT M CARLTON, JR, DONALD
DOKKEN, FLOYD BURCHETT, KEITH NEMITZ,
RICHARD MILLER, MIKE NELSON, TIM KESTER,
DOUG McCLAUGHRY, FLOYD F. REICHERT, and RON
SENGER, Trustees of Northwest Sheet Metal Workers
Pension Fund, NORTHWEST SHEET METAL WORKERS
SUPPLEMENTAL PENSION TRUST; ROBERT M.
CARLTON, JR., DONALD DOKKEN, FLOYD
BURCHETT, KEITH NEMITZ, RICHARD MILLER,
MIKE NELSON, TIM KESTER, DOUG McCLAUGHRY,
FLOYD F REICHERT and RON SENGGER, Trustees of
Northwest Sheet Metal Workers Supplemental Pension
Trust, N. E WASHINGTON AND NORTHERN IDAHO
SHEET METAL TRAINING TRUST; ROBERT W.
BRANDT, RICHARD E. PANSIE, RICHARD
SCHRADER, FLOYD BURCHETT, TRACY JOHNSON,
Trustees of N E Washington and Northern Idaho Sheet
Metal Training Trust, and SHEET METAL WORKERS
LOCAL 66,

Plaintiffs,

v

CENTRAL HEATING AND PLUMBING INC

Defendant

CV 02-1122
NO.

COMPLAINT FOR MONIES
DUE AND FOR INJUNCTIVE
RELIEF

WEBSTER, MRAK & BLUMBERG

COMPLAINT FOR MONIES DUE AND FOR INJUNCTIVE RELIEF - 1

1422 SENECA STREET
SEATTLE, WASHINGTON 98101
(206) 223 0344

ORIGINAL

JURISDICTION AND VENUE

1 This is an action brought pursuant to Section 301 of the National Labor Relations Act, as
 2 amended (hereafter "the Act"), 29 U.S.C. § 185, and Section 502 of the Employee Retirement Income
 3 Security Act of 1974 (hereafter "ERISA"), 29 U.S.C. § 1132. Jurisdiction and venue are conferred upon
 4 this Court by 29 U.S.C. §§ 185(a), 1132(a), (e) and (f).
 5

PARTIES

6
 7
 8 2 Plaintiff NORTHWEST SHEET METAL WORKERS ORGANIZATIONAL TRUST
 9 (hereafter "Northwest Organizational Trust") is a labor-management pension trust fund created pursuant
 10 to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name
 11 by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Northwest Organizational Trust is
 12 administered in the State of Washington from its place of business at 33919 9th Avenue South, Suite 103,
 13 Federal Way, WA 98003.

14 3. Plaintiffs JIM CRITCHLOW, PETER FLEUSTCH, DAVID PARKS, DON WHITE,
 15 JEFF STOWE, FLOYD BURCHETT, KEITH NEMITZ, and CHARLEY MULCAHY (hereafter
 16 "Northwest Organizational Trust Trustees") are the Trustees of plaintiff Northwest Organizational Trust.
 17 They have been appointed and qualified as trustees pursuant to the Trust Agreement establishing
 18 plaintiff Northwest Organizational Trust.

19 4 Plaintiff NORTHWEST SHEET METAL WORKERS WELFARE FUND (hereafter
 20 "Welfare Trust") is a labor-management health and welfare trust fund created pursuant to the provisions
 21 of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section
 22 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Welfare Trust is administered in the State of
 23 Washington.

24 5. Plaintiffs PHILLIP C. PETERSEN, BARON DERR, JERRY KINSLEY, BRENT
 25 MOORE, WARREN KITCHENS, CHARLEY MULCAHY, RICK SCHRADER, and RONALD
 26 SENGGER, (hereafter "Welfare Trustees") are the Trustees of plaintiff Welfare Trust. They have been
 appointed and qualified as trustees pursuant to the Trust Agreement establishing plaintiff Welfare Trust

WEBSTER, MRAK & BLUMBERG

1 6 Plaintiff NORTHWEST SHEET METAL WORKERS PENSION FUND (hereafter
2 "Pension Trust") is a labor-management pension trust fund created pursuant to the provisions of Section
3 302(c) of the Act, 29 U S C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of
4 ERISA, 29 U S C § 1132(d)(1). Plaintiff Pension Trust is administered in the State of Washington

5 7. Plaintiffs ROBERT M. CARLTON, JR , DONALD DOKKEN, FLOYD BURCHETT,
6 KEITH NEMITZ, RICHARD MILLER, MIKE NELSON, TIM KESTER, DOUG McCLAUGHRY,
7 FLOYD F REICHERT, and RON SENGGER, (hereafter "Pension Trustees") are the Trustees of plaintiff
8 Pension Trust. They have been appointed and qualified as trustees pursuant to the Trust Agreement
9 establishing plaintiff Pension Trust

10 8 Plaintiff NORTHWEST SHEET METAL WORKERS SUPPLEMENTAL PENSION
11 TRUST (hereafter "Supplemental Pension Trust") is a labor-management pension trust fund created
12 pursuant to the provisions of Section 302(c) of the Act, 29 U S C § 186(c), and authorized to sue in its
13 own name by Section 502(d)(1) of ERISA, 29 U S C § 1132(d)(1). Plaintiff Pension Trust is
14 administered in the State of Washington

15 9. Plaintiffs ROBERT M. CARLTON, JR , DONALD DOKKEN, FLOYD BURCHETT,
16 KEITH NEMITZ, RICHARD MILLER, MIKE NELSON, TIM KESTER, DOUG McCLAUGHRY,
17 FLOYD F REICHERT and RON SENGGER, (hereafter "Supplemental Pension Trust Trustees") are the
18 Trustees of plaintiff Supplemental Pension Trust They have been appointed and qualified as trustees
19 pursuant to the Trust Agreement establishing plaintiff Supplemental Pension Trust Trustees

20 10 Plaintiff N E WASHINGTON-NORTHERN IDAHO SHEET METAL TRAINING
21 TRUST (hereafter "Training Trust") is a labor management training fund created pursuant to the
22 provisions of Section 302(c) of the Act, 29 U.S.C § 186(c), and authorized to sue in its own name by
23 Section 502(d)(1) of ERISA, 29 U S C. § 1132(d)(1). Plaintiff Training Trust is administered in the
24 State of Washington. Plaintiff Training Trust has delegated authority to collect contributions and
25 attendance delinquency charges to plaintiff Welfare Trust
26

11 Plaintiffs ROBERT W. BRANDT, RICHARD E. PANSIE, RICHARD SCHRADER,
FLOYD BURCHETT, TRACY JOHNSON and JEROME SIREK, Trustees of the N. E. Washington-
Northern Idaho Sheet Metal Training Trust, (hereafter “Training Trust Trustees”) are the Trustees of
plaintiff Training Trust. They have been appointed and qualified as trustees pursuant to the Trust
Agreement establishing plaintiff Training Trust

12 Plaintiff SHEET METAL WORKERS LOCAL 66 ("Local 66") is a labor organization. It represents for purposes of collective bargaining persons who are employed in the construction industry. That industry affects commerce within the meaning of the Act.

13. Defendant CENTRAL HEATING AND PLUMBING INC ("Defendant"), is a sheet metal contractor and is a party to a collective bargaining agreement with Local Union 66, and has employed or does employee persons represented by Local 66 Defendant's principal place of business is 619 West J Street, Yakima, WA 98902

CLAIM FOR RELIEF

14 Plaintiffs incorporate by reference as though set forth fully herein paragraphs 1 through
13 above

15. The collective bargaining agreement between Defendant and Local 66 was in effect at all times material hereto. By that agreement Defendant became obligated to make monthly contributions to plaintiffs Welfare, Pension, Supplemental Pension, Organizational, and Training Trusts on behalf of employees represented by Local 66.

16. Defendant has also agreed to and has received money from its Local 66 employees, as part of the employees' after-tax wages, which Defendant is and was obligated on a monthly basis to deposit into each employee's account, or submit to Local 66 as part of each employee's dues obligation Defendant holds such money in trust.

17. Payments due to the Welfare, Pension, Supplemental Pension, Organizational, and Training Trusts, and the amounts of employees' after-tax wages held in trust by Defendant, are calculated pursuant to a contribution reporting form required to be prepared monthly by Defendant

1 18. The completed contribution reporting form and accompanying payment are due at the
2 Welfare office and address within fifteen (15) days after the end of each calendar month and are
3 considered delinquent if not received within 20 days after the end of each calendar month

4 19 For the period beginning February 2002 and continuing to the present, Defendant has
5 failed either timely or entirely to file its contribution reporting forms and to make payments due to
6 plaintiffs despite its obligation under the collective bargaining agreements to do so and despite demand
7 by plaintiffs.

8 20. The dollar amount due plaintiffs cannot be ascertained without reviewing defendant's
9 employment records for the period in question.

10 21 Unless ordered by this Court, Defendant will continue to refuse to file contribution
11 reporting forms and to pay to the Welfare, Pension, Supplemental Pension, Organizational, and Training
12 Trusts, and Local 66 the payments due them. As a result, plaintiffs will be irreparably damaged

13 22 In addition to the unpaid contributions, plaintiffs are entitled to the following pursuant to
14 Section 502(g) of ERISA, 29 U.S.C. § 1132(g), and Section 301 of the Act, 29 U.S.C. § 185, as
15 amended:

16 (a) Interest on the unpaid or delinquent contributions,

17 (b) An amount equal to the greater of

18 (i) interest on the unpaid contributions (hereinafter "penalty"), or

19 (ii) liquidated damages in an amount equal to 20% of the amount awarded as
20 unpaid or delinquent contributions, as provided for in the Trust Agreement (hereinafter "liquidated
21 damages"), and

22 (c) Reasonable attorneys' fees and the costs of this action.

23 23. A copy of this complaint will be served upon the Secretary of Labor and the Secretary of
24 the Treasury by certified mail as required by ERISA, 29 U.S.C. § 1132(h)

25 WHEREFORE, plaintiffs demand judgment against the Defendant.
26

1 1. Obligating Defendant to pay to plaintiffs Welfare, Pension, Supplemental Pension,
 2 Organizational, and Training Trusts, and Local 66, the full amount of contributions owing to it for the
 3 period from February 2002 to date of judgment, with the proper amount of interest and with a penalty or
 4 liquidated damages as established by Section 502(g) of ERISA, 29 U.S.C. § 1132(g), the Trust
 5 Agreement, and the collective bargaining agreement;

6 2 Restraining and enjoining Defendant, its officers, agents, servants, attorneys, and all
 7 persons acting on its behalf or in conjunction with it from: (a) refusing to file contribution reporting
 8 forms due to plaintiffs Welfare, Pension, Supplemental Pension, Organizational, and Training Trusts,
 9 and Local 66 for the period from February 2002 to the date of judgment, and for all periods thereafter for
 10 which Defendant is obligated to file such reports under the terms of the collective bargaining agreement,
 11 and (b) refusing to pay to plaintiffs Welfare, Pension, Supplemental Pension, Organizational, and
 12 Training Trusts, and Local 66 all funds, including interest, penalties, and liquidated damages, due for
 13 the period February 2002 to the date of judgment, and for all periods thereafter for which Defendant is
 14 obligated to make payments under the terms of the collective bargaining agreement,

15 3 Requiring Defendant to pay to plaintiffs reasonable attorneys' fees and the costs of this
 16 action as set forth in Section 502(g) of ERISA 29 U.S.C. § 1132(g), and

17 4 Granting plaintiffs such further and other relief as may be just and proper

18 DATED this 21th day of May, 2002

19 WEBSTER, MRAK & BLUMBERG

20 

21 MARK E. BRENNAN, WSBA No 8389
 22 Attorneys for Plaintiffs

23 437 052102 complaint

24 WEBSTER, MRAK & BLUMBERG